

YOUR RESPONSIBILITIES



How to File Weekly Claims

You must file a “weekly claim” for each “week” in which you want to receive a benefit. That filing determines your eligibility for payment of benefits. For the purposes of unemployment benefits, a “week” begins at midnight Sunday and runs through 11:59 PM the following Saturday. Generally speaking, you will file a weekly claim on the first Sunday or Monday following the initial contact to the department. Each week thereafter, you must file a weekly claim by one of the filing methods mentioned below after the week ends on Saturday, but **BEFORE 4:30 PM the following Friday. Remember – you only have SIX days to file a weekly claim after the week ends on Saturday.**

When you file your first weekly claim either by Internet or telephone, you will be required to establish a four digit Personal Identification Number (PIN), which you will use along with your Social Security Number (SSN) each time you file a weekly claim. It is your responsibility to ensure that no one else, including family members, has access to these two numbers.

If a payment is made in error as a result of someone else using your SSN and PIN, you will be required to repay the full amount of improperly paid benefits and you may also have administrative penalty weeks assessed against you.

If you had a break in filing or were totally employed for the previous week, it will be necessary for you to call the toll-free Initial Claims line at 1-877-214-3330 **BEFORE** you can call in your weekly claim.

Hours of operation for both weekly claims applications is indicated in the “Introduction” section of this handbook.

Filing Weekly Claims by Internet **www.labor.vermont.gov**

To file an internet claim, go to www.labor.vermont.gov. Click on the “Workers” section and then on “Filing a Weekly UI Claim” under “Online Services”.

The first time you file a weekly claim, you will be asked to establish your PIN. You will also be asked if you have received, read and understood the section “Your Responsibilities” in this handbook.

You will then be asked eight questions concerning the week for which you are filing. Remember, you are always filing for the previous week and your answers should relate only to that week.

When you have completed and successfully submitted the internet claim form, the screen will display your weekly benefit amount, maximum amount, and benefit balance. If you do not receive this display, your filing has not succeeded and your claim will not be processed.

Filing Weekly Claims by Telephone **Call 1-800-983-2300 – select Option #1**

The first time you file a weekly claim, you will be asked to establish your PIN. You will also be asked if you have received, read and understood the section “Your Responsibilities” in this handbook.

You will then be asked eight questions concerning the week for which you are filing. Remember, you are always filing for the previous week and your answers should relate only to that week.

Press 1 to answer YES or 9 to answer NO to the questions. When you have completed the filing, you will hear the words, “Thank you for using the weekly claim and information line. Good-bye”, which indicates that the filing was accepted. Do not hang up until you have heard the system say “good-bye” or your claim will not be processed.



The EIGHT Questions Asked When Filing a Weekly Claim

Your eligibility to receive benefits is determined by your answers to the questions below for each week you file.

1. Were you able to work and available for work?
2. Did you refuse an offer of work or a referral to a job?
3. Did you quit a job?
4. Were you fired from a job?
5. Did you receive a back pay award or settlement?
6. Did you receive Workers' Compensation, Vacation pay, or Wages in Lieu of Notice?
7. Did you look for work as directed?
8. Did you perform any work or earn any wages?

Depending on how you answer these questions, other questions may also be asked. Answer all questions accurately. A material misstatement of fact made in connection with filing a claim for unemployment benefits may result in liability to repay the benefits. For more information refer to Benefit Overpayment, Recovery and Penalty Weeks section of this handbook.

If you forget to file a weekly claim, please call Claimant Assistance 1-877-214-3332.

If You Make a Mistake When Filing a Weekly Claim

If you have made a mistake in filing your claim, you may correct it on the same day by simply filing the claim again. The last claim filed on that day will be the one processed. If you discover the mistake too late to re-file, call Claimant Assistance to correct your mistake.

Reporting Wages When Filing a Weekly Claim

You are encouraged to accept part time work while looking for full time work and receiving benefits. The unemployment law includes a provision known as "disregarded earnings". This provision of the law allows you to work part time and earn up to 30% of your weekly benefit amount, or \$40, whichever is higher without affecting your benefits. Earnings that exceed your disregarded earnings are deducted on a dollar for dollar basis from your benefit payment. When you report gross earnings, the computer will automatically calculate the amount of your payment. If you later discover you made a mistake in reporting wages, you must call Claimant Assistance to have the wages corrected.

If you work 35 hours or more, or your earnings exceed your weekly benefit amount plus your disregarded earnings, you will be considered fully employed and will not be entitled to receive benefits for that week. **If your hours or earnings are reduced in a future week, you will need to re-open your claim by calling 1-877-214-3330.**

You must report all wages earned from employment during the week you earn them, whether or not you have received payment for this work. The term "wages" means all payments for services performed by an individual including commission sales, gratuities, and cash value of any non cash items such as board, rent, fuel or offset of a debt. The term wages and/or earnings also include payment received in lieu of working, such as sick pay or paid time off. At the back of this handbook, you have been provided a worksheet with examples to help you calculate and keep track of your earnings.

Failure to provide accurate information when filing your weekly claim may result in an overpayment of benefits. If you fail to report all of your earnings, and as a result are overpaid unemployment benefits, you will be required to repay the benefits. If it is determined you **intentionally** omitted or underreported your earnings, you may have additional penalties imposed and could face prosecution for fraud.



Return to Work Dates

If an employer provides you with a **definite** return to work date for full time employment, you may be excused from making an active work search once the employer submits written confirmation of the promised work. A form with the information needed from the employer is provided in the back of this handbook. Even if you have a return to work date, you must be available for work. If you refuse an offer of work, and the department determines the offer was for “suitable work”, you will be disqualified from receiving benefits and may have to repay benefits that have been paid to you.

If a return to work date changes, the employer must contact the department and provide the new date. If the employer withdraws or changes your return to work date, you must contact Claimant Assistance. **Do not file a weekly claim for benefits after returning to full time employment.**

Losing Your Rights to Collect Benefits

The Unemployment Insurance system is designed to help you but it does have rules and regulations that must be followed. The following actions may result in the loss, denial or delay of benefits. You may be required to repay any benefits improperly received as a result of your non-disclosure or misrepresentation of a material fact. If you have questions about **any** of these situations, it is also **YOUR** responsibility to contact Claimant Assistance.

It is **YOUR** responsibility to notify the Vermont Department of Labor if **any** of these situations occurs.

- If you quit a job
- If you are discharged or fired from a job
- If you leave a job due to health reasons
- If you lose your job due to a conviction, incarceration or for any other reason involving actions by a judge, court, the Department of Corrections or a law enforcement agency
- If you leave your job to participate in a strike or labor dispute
- If you fail to file a weekly claim within 6 days from the week ending date of the week for which you are filing
- If you fail to register with or report to your Resource Center as directed
- If you fail to actively look for work as directed
- If you fail to follow up on a referral for work
- If you fail to apply for and/or accept available work
- If you fail to be able and available for work
- If you leave your immediate area
- If you fail to accurately report the number of hours worked and earnings from employment, casual employment or sub-contracting
- If you fail to report an increase in sideline or self employment activity
- If you fail to report you are attending school or training
- If you fail to report the receipt of vacation, or severance pay; paid time off; wages in lieu of notice; back pay award or settlement; temporary workers' compensation; or pension that is contributed to entirely by a base period employer
- If you are applying for or receiving unemployment benefits from another state
- If you cannot provide documentation of your identity and/or citizenship when required
- If you fail to report receipt of return to work assurance from an educational institution.



Reasons you **MUST** call Claimant Assistance

If any of the following situations occur, you **MUST** contact Claimant Assistance immediately.

- Your telephone number changes
- You are unavailable for work for **any** reason
- You are ill or disabled
- Your return to work date changes in **any** way
- You become self-employed or start your own business
- You move to another state
- You leave your immediate area even if only for a few days
- You attend or plan to attend any school or training programs
- You receive reasonable assurance * of returning to work in an educational setting

Reasonable Assurance for Individuals Who Work for a School

** Individuals who work for a school and are unemployed between terms (for example, during the summer) or during a break in the school schedule during the school year, are not allowed to use the wages earned in this type of employment provided the individual has a reasonable assurance of returning to work for a school at the end of the break. If you started the break or are between terms and do not have a reasonable assurance of returning to work, you may be paid unemployment benefits. If during this time you receive an offer of work from a school, you must notify the department immediately. Likewise, if you had a reasonable assurance of returning to work and for some reason you no longer have a reasonable assurance, call Claimant Assistance.*

Name, Address, or Telephone Number Change

If your name or address changes (even if you have not moved), you must submit these changes in writing. You may submit your name, address, or telephone number change by completion of the form at the back of your handbook. The department does not permit unemployment checks to be forwarded to a new address and therefore the checks will be returned. The department must be able to contact you regarding job referrals and have a current address to send out your 1099G form.

Telephone number changes may be made by calling Claimant Assistance, if you are not submitting a name or address change.

Work Search Requirements

Unless you have a definite return to work date with a specific employer AND have been excused by the department from conducting an active work search, you are **REQUIRED** to make at least three (3) job contacts for each week you file a weekly claim. You must be realistic in your search for work. Apply for jobs you are qualified to do and willing to accept. Applying for the same job more than once within a five-week period does not count as a valid contact.

A **valid** job contact depends on the type of work you are qualified to perform. Submission of a resume would only be acceptable **IF** you work in a “professional” trade or occupation. Applying in person would be a valid contact for “non-professional” trades, such as work in the construction trade. Telephone calls are not an acceptable method of contact. Seeking employment by “surfing” the Internet for available jobs or by posting your resume at an employment website, including Vermont JobLink, is **not** a valid job contact, unless you have actually applied for a job with a specific employer. In these instances, you should print and keep any confirmation you receive indicating your application has been submitted.

YOUR RESPONSIBILITIES - continued



You are also **REQUIRED** to keep accurate records of your job contacts. Work search forms are provided in the back of the handbook to assist you in keeping track of your contacts. If you do not use these forms, you are required to keep records containing all of the information outlined on our work search form.

You will be notified in writing when it is time for the department to review your work search efforts. If you are asked to submit your information to the department we suggest visiting your Resource Center. They can mail or fax your information free of charge. Keep copies for yourself of any information that is submitted to the department. If you have not met the requirements, you may be found in overpayment for any weeks you did not comply with the directives and may be required to repay benefits.

You may be selected to participate in Re-employment Services provided by your Resource Center. Failure to participate may result in a denial and/or overpayment of benefits, which you could be liable to repay.

If The Vermont Division of Vocational Rehabilitation is conducting a work search for you, your counselor can submit a letter to this department to waive your unemployment work search requirements.

Vermont JobLink and Job Service On-Line Registration

If you do not have a definite return to work date, you will be **REQUIRED** to complete an on-line application for **BOTH** of these services. You will receive written notification of the requirement that must be completed within 10 days of the notice date. If you receive this notice, please remember to complete **BOTH** applications. Failure to register in **BOTH** applications may delay or result in a loss of your UI benefits. Further information about both services can be found under "Important Information".

Suitable Work

Suitable work is generally defined as work that you are qualified to do based on your skills, work experience, and employment history and that pays at least the prevailing wage rate for the type of job in your local labor market. You are required, as a condition of receiving unemployment benefits, to apply for and accept an offer of suitable work. If you fail, without good cause, to either apply for or accept an offer of suitable work, you will be disqualified for benefits and may be required to repay benefits you received. Although you may be looking for full time work, a refusal of suitable part time work could also result in a disqualification.

Prior training and/or experience, prior earnings, length of employment, prospects of securing work in your local labor market in your customary occupation, the distance to work from your home, physical fitness requirements of the job, the degree of risk involved to your health, safety or morals, are factors involved in determining if a job is suitable.

A job paying less than the last one you held will gradually become more suitable the longer you are unemployed. You must be willing to accept 10% less than you were making when you filed your initial claim. After five weeks of filing, you must be willing to accept 20% less and after ten weeks of filing, you must be willing to accept the prevailing wage for the type of work you are seeking. The prevailing wage is the average wage for the job among all employers in your labor market. Your Resource Center can provide you with prevailing wage information in your labor market or it can be obtained at www.labor.vermont.gov.



Self-Employment

An individual who is engaged in the formation, development, or operation of a trade, business, enterprise, profession, or other activity undertaken for the purpose of producing income and which is in the form of a sole proprietorship, partnership, or a limited liability company or other similar entity is **self-employed**. While a self-employed individual is not automatically ineligible for unemployment insurance benefits, the more time and effort the individual devotes to self-employment, the less he or she is available for work with other employers. If you are, or attempt to become, self-employed, you must call Claimant Assistance.

Sideline Activity

Sideline activity is your own pre-existing self-employment business, established or performed at the same time you were working for a primary employer whose employment is covered under the unemployment compensation laws. When you lose your primary employment, but continue your sideline activity (your own business), you do not report any earnings from your sideline activity when filing your weekly claims. However, you are required to contact Claimant Assistance if you increase your time devoted to your sideline activity by 20% or more, which is measured by time devoted or earnings you received from your own pre-existing business.

Sideline Activity is NOT working a second job at another business. It is your own business that you established and did while working for your primary employer before establishing an unemployment claim. If you have any questions on whether or not the employment in question should be reported on your weekly claim, to avoid overpayment of benefits that you will be required to repay, you are encouraged to contact Claimant Assistance for guidance.

Pensions

Pensions you contributed to in whole or in part are not deductible from your weekly benefit amount. Pensions, which are totally funded by a base period employer, are deducted dollar-for-dollar from your benefit amount. If your deductible pension income is less than your benefit amount, you will receive a reduced benefit.

The following types of pensions **may affect** your weekly benefit amount, depending on whether or not you contributed to the pension:

- Employer pension program
- Military pension
- Civil Service pension
- Local Government pension

The following types of retirement income **will not affect** your weekly benefit amount:

- Pension from a non-base period employer
- Supplemental Security Income
- Veterans Administration Disability Compensation
- Social Security Income



Appealing Determinations

After a determination has been issued (explained under “Important Information”), both you and your previous employer have the right to appeal a determination within 30 calendar days of the determination date. An Appeal must be submitted to the department **in writing** by:

MAIL: Vermont Department of Labor, P. O. Box 488, Montpelier, Vermont 05601-0488

E-MAIL: [**labor.appeals@state.vt.us**](mailto:labor.appeals@state.vt.us)

FAX: 802-828-4289

IN PERSON: You can deliver a letter of appeal in person at the administrative office of the VDOL at 5 Green Mountain Drive in Montpelier.

If you appeal your determination, make sure you **continue to file weekly claims** each week you are unemployed until a decision on the appeal has been made. Failure to file weekly claims may result in a loss of benefits for the weeks not filed for.

Three Appeal Levels

The first level of Appeal is to the **Administrative Law Judge**. Appeals to the Administrative Law Judge must be submitted, in writing, no later than 30 calendar days from the date of the determination being appealed. Regardless of which party appeals, it is **very important** to participate in this telephone hearing, as this is your **only chance** in the appeals process to present testimony and evidence relevant to the issues. After the hearing is completed, a written decision will be sent to all parties involved.

The second level of Appeal is to the **Vermont Employment Security Board**. Appeals to the Vermont Employment Security board must be submitted, in writing, no later than 30 calendar days from the date of the decision being appealed. The Board will conduct a hearing in Montpelier to review all testimony and evidence presented at the Administrative Law Judge hearing. You may participate in the hearing, but no new testimony or evidence may be presented. After the Board hearing is completed, a written decision will be sent to all parties involved.

The third level of Appeal is to the **Vermont Supreme Court**. The Clerk of the Employment Security Board must RECEIVE appeals to the Vermont Supreme Court, in writing, no later than 30 calendar days from the date of the decision being appealed. Although it is not required, many people engage the services of an attorney before proceeding with an appeal to the Supreme Court. There is a filing fee for appeals to this level, but in some circumstances the court can waive this fee. The Supreme Court will review the record and issue a written decision, which is final.



The Appeal Process

Notice of Hearing

The *Notice of Hearing* before an administrative law judge will provide you with important information about the time and date of the appeal hearing, which will be conducted by a telephone conference. Mail or FAX (802-828-4289) any documents you want to have considered as evidence in the hearing to the appeals office and, if the case involves your former employer, to that employer so they can be considered as part of the record. Do this immediately following receipt of the Notice of Hearing so the documents are received no less than 24 hours before the hearing. If you do not send a copy to the employer, your exhibits will NOT be entered into the record, will not be considered in making the decision and will not be available for use later in the appeal process.

NOTE: After receipt of the *Notice of Hearing*, you must call the appeals office with a telephone number where you can be reached at the time of the hearing, even if you have previously supplied a telephone number. You will not be called if you do not supply a telephone number.

Do I Need a Lawyer?

Hearings are designed to permit laypersons to represent themselves. If the issues are complex, if you expect the other party to be represented by an attorney, or if you think you may have difficulty presenting your case, you may wish to consult an attorney. You can also contact Vermont Legal Aid to see if they can provide legal assistance to you. If you are going to have an attorney, you should let the appeals office know as soon as possible to avoid scheduling delays. Hearings will not be postponed to allow a party to seek legal representation.

Evaluate and Prepare Your Evidence

The first level of appeal with the Administrative Law Judge is a de novo review, which means the judge reviews the case based solely on evidence presented in the hearing record. The judge is not bound by earlier findings or determinations made by the department. Since this will be your ONLY opportunity to present your evidence, and further appeals only review testimony and other evidence introduced at this hearing, you should be prepared to participate in this process, and to present your side of the story.

What Goes on at the Hearing Before an Administrative Law Judge?

Testimony is taken under oath and tape recorded. The Administrative Law Judge will first determine which records, if any, will be made part of the record. Depending on which party has the burden, that party will go first in presenting its side of the dispute, including presenting witnesses, if any. Next, the other side is given an opportunity to present its side of the dispute, including presenting witnesses, if any. Following that, both parties, in turn, will be given the opportunity to ask relevant questions of the other. Relevant information is information that bears directly on the issues that are being considered, including the credibility of witnesses and parties. While these proceedings are administrative in nature, and do not follow the same rules as one would find in a court of law, fairness and efficiency may require the Judge to rule evidence and testimony out of order.

Prepare in advance. Make a list of your key points and be prepared to address all issues raised in the determination under appeal. Stay calm. Do not be defensive or aggressive. You are at the hearing to present facts and to bring into question those facts presented by the other party. It might also be helpful to be prepared to take notes, as you will have to wait for the appropriate time to ask a question, dispute testimony, or provide additional relevant information.



The Importance of Witnesses & Subpoenas

You must inform the appeals office in advance of the names and telephone numbers of witnesses whom you want to testify in the hearing. Make sure that your witnesses are willing to participate and that they will be available at the time of the hearing. If a witness is not available, you may obtain and submit a written statement from them. That statement will carry more weight if it is sworn and notarized, but such statements never carry the full weight of direct testimony at the hearing. If a witness whom you believe to be vital to your case refuses to testify, you may request that the administrative law judge issue a subpoena. A subpoena request must be submitted in writing, in advance of the hearing date. The request must include a statement that the witness has been asked to testify but has refused. It must also explain why the witness's testimony is essential and provide a physical address (not a PO box) for each witness. A subpoena request may be granted or denied at the judge's discretion.

Contacts with the Administrative Law Judge Outside of the Hearing

The Administrative Law Judge generally will have no contact with you or any party outside of the hearing. This is to avoid the appearance of unfairness or of accepting evidence outside the hearing. Other members of the appeals office will advise or assist you with procedural questions. In the State of Vermont, Appeal Hearings are CONFIDENTIAL and are not open to the public.

Postponement of a Hearing

You should make every attempt to participate in the Appeal Hearing when scheduled. Either party may request a postponement but the postponement must be for good cause, which is determined by the Appeals representative, who makes the decision on a case-by-case basis. If you wish to have a postponement, you must call the Appeals office to request one, as far in advance of the hearing date as possible.

Withdrawal of an Appeal

If you wish to withdraw your appeal, you may do so in writing, or by calling the Appeals office. You should notify the Appeals office as soon as possible prior to the date of the hearing. If the employer has filed the appeal, you cannot withdraw the appeal and the hearing will take place. If the appeal is withdrawn, the initial determination or decision becomes final and cannot be changed.

Confidentiality

The information you and your employer(s) provide the department is confidential and will not be released to the public. Information will be shared with you and your employer(s) if necessary to process the claim for benefits. In addition, federal and/or state law requires the department to release information to the following agencies:

- Vermont Department of Children & Families
- Vermont Department of Taxes
- Vermont's Crime Victims Restitution Unit
- Vermont Office of Child Support
- Vermont Department of Education
- Social Security Administration
- National Directory of New Hires
- US Department of Housing & Urban Development
- U. S. Department of Labor
- All Unemployment Insurance Agencies
- Federal Parent Locator Service

Findings and conclusions contained in departmental decisions are not admissible in any other venue.



Equal Opportunity

Equal Opportunity is the Law. The Vermont Department of Labor is an Equal Opportunity/Affirmative Action Employer. Applications from women, individuals with disabilities, and people from diverse cultural backgrounds are encouraged. Auxiliary aids and services are available upon request to individuals with disabilities. 711 (TTY/Relay Service) or (802) 828-4203 TDD (Vermont Department of Labor).

It is against the law for the Vermont Department of Labor, being a recipient of Federal Financial Assistance, to discriminate against any individual, on the basis of race, disability, color, ancestry, place of birth, national origin, age, sex, sexual orientation, religion, political affiliation or belief.

WHAT TO DO if you believe you have experienced discrimination:

If you think you have been subjected to discrimination, you may file a complaint within 180 days from the alleged violation with either:

- The recipient's Equal Opportunity Officer – Vermont Department of Labor
by mail: Post Office Box 488, Montpelier, Vermont 05601-0488;
by telephone: (802) 828-4170;
by e-mail: imcgurran@labor.state.vt.us; by TDD: (802) 828-4203; or
- The Director, Civil Rights Center (CRC) U.S. Department of Labor
by mail: 200 Constitution Avenue, Room N-4123, Washington, DC 20210

If you filed your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing a complaint with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you FILED your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with the CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline. In other words, within 120 days after the date on which you FILED your complaint with the recipient.

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with the Civil Rights Center. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

Limited English Proficiency and Sign Language Interpreters

If a language translator or a sign language interpreter is needed, please contact the department immediately. The department uses a telephone based language interpretation service for non-English speaking parties. If a sign language interpreter is needed the department will make arrangements.

Americans with Disabilities Act

This department complies with the Americans with Disability Act. Should you require special assistance due to a disability, as defined in the Act, in order to pursue your rights, please contact the department immediately.